

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JOHN THOMAS MUSIC,

Plaintiff,

V.

JAMES R. KEY,

Defendant.

NO. 4:17-CV-5006-TOR

**ORDER ADOPTING REPORT AND
RECOMMENDATION
TO DISMISS HABEAS PETITION**

BEFORE THE COURT is John Thomas Music's (Petitioner's) petition for

writ of habeas corpus pursuant to 28 U.S.C. § 2254 (ECF No. 6) and Respondent's Answer (ECF No. 11), which the Court has construed as a motion to dismiss, ECF No. 11, 16. Petitioner, a prisoner at the Washington State Penitentiary at Walla Walla, Washington, is proceeding *pro se*; Respondent is represented by Assistant Attorney General Paul D. Weisser. The parties have not consented to proceed before a magistrate judge.

1 The matter was submitted to the Honorable Magistrate Judge John T.
2 Rodgers, who issued a Report and Recommendation (ECF No. 17). The R&R
3 recommended denying the habeas petition as time barred and allowed the parties to
4 submit written objections by August 7, 2017. No objection has been filed by either
5 party. After reviewing all filings and liberally construing Petitioner's submissions
6 in the light most favorable to him, the Court adopts the Report and
7 Recommendation (ECF No. 17) and GRANTS Defendant's Motion to Dismiss.

8 | ACCORDINGLY, IT IS HEREBY ORDERED:

1. Defendant's (construed) Motion to Dismiss (ECF No. 11) is **GRANTED**.
 2. The Court **ADOPTS** the Report and Recommendation (ECF No. 17). Plaintiff's Petition for relief (ECF No. 6) is **DENIED**.
 3. Each party to bear its own costs and expenses.

The District Court Executive is directed to **enter** this Order and Judgment accordingly, **furnish** copies to the parties, and **close** the file.

DATED August 25, 2017.



Thomas O Rice
THOMAS O. RICE
Chief United States District Judge